

COMMONWEALTH OF VIRGINIA  
VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD  
RICHMOND

**CIRCULAR LETTER 92-1**

May 22, 1992

**TO: ALL RETAIL AND CLUB LICENSEES**

**SUBJECT: COIN OPERATED "PUSHER" MACHINES**

**Purpose:** The purpose of this Circular Letter is to advise those concerned with the current position of the Board pertaining to the possession of certain types of coin or token operated pusher devices sometimes known as "quarter pushers," "Penny Falls," or "Merchandiser" machines.

**Background:** Section § 4-37 A. (1) (n) of the Alcoholic Beverage Control Act prohibits a licensee from possessing any illegal gambling apparatus, machine or device upon the licensed premises. This section, therefore, prohibits the possession of gambling devices upon ABC licensed premises that are not permitted in Virginia under federal law. This is consistent with previous decisions of the Board relative to other types of devices such as electronic video poker machines and roulette wheels. A particular device is considered prohibited under federal law if it meets the definition of a gambling device under Section 1171 of Title 15 of the United States Code, and:

1. Is in Virginia after having been transported in interstate commerce; or
2. The person or persons making the device available to others for use has not registered with the Attorney General of the United States.

The term "gambling device" under federal law includes:

Any machine or mechanical device (including, but not limited to roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as a result of the application of an element of chance, any property or money, or (B) by the operation of which a person may become entitled to receive, as a result of an element of chance, any money or property.

Quarter Pusher machines that are not equipped (for each play field) with both a "shooter" (device used to aim coins onto the play field) and a "stop button" (designed to allow player. to control the sweeping motion of the push arm) are prohibited if consideration and prize (either directly or indirectly) are present. Devices equipped with both the "shooter" and the "stop button," which may allow the player to strategically aim or load tokens or coins and may affect the final outcome of play, are permitted UNLESS they contain any or all of the

following overt or covert operational characteristics:

1. Predetermined house retention ratio;
2. Side slots (overt or covert) that facilitates the retention of coins by the machine;
3. Triangular front lip;
4. Playing field surface that is coarse or bears a random pattern;
5. Imbedded screw heads that can be raised slightly above the playing surface;
6. Accumulated coin mass (more than one layer of coins or tokens on the playing surface); or
7. Imposed impedance factors, e.g., the placing of prizes or weighted chips or tokens on top of the tokens or coins that lay on the playing surface.

Devices containing these characteristics are prohibited because they defeat the elements of skill that may be provided by the combination of the "shooter" and the "stop button" and "sweep arm."

**Held:** After July 1, 1992, any licensee who possesses or uses on his licensed premises, a quarter pusher machine or like device, with any number or combination of the aforementioned prohibited characteristics, not only may be in violation of the Virginia Alcoholic Beverage Control Act, but also of the federal Gambling Devices Act of 1962. When such a device is found upon licensed premises, appropriate law enforcement action will be taken. In addition, criminal prosecution may be initiated, and the machines will be subject to seizure and forfeiture under the laws of the United States.

Any licensee who has a question as to whether or not a particular device currently located on the licensed premises falls within the parameters of the devices prohibited herein, should contact the ABC Special Agent in his respective area for the purposes of arranging an on-site examination. If the examination discloses that the device falls within the prohibited group, any use must immediately cease, and a reasonable period of time not to exceed 30 days will be allowed to remove the device from the licensed premises. Failure to do so within that time period will result, at minimum, in a citation against the ABC license and the matter will be presented to the United States Attorney for appropriate action.

**Inquiries:** Inquiries concerning the above should be directed to the ABC District office nearest you. A list of those offices are attached.

BEVERAGE CONTROL BOARD  
  
Secretary

**Department of Alcoholic Beverage Control  
District Offices**

**Abington**

331 W. Main Street

P. O. Box 205

Abingdon, Virginia 242 10-0205

Telephone Number (703) 676-5502

**Alexandria**

501 Montgomery Street

P. O. Box 25157

Alexandria, Virginia 22313-5157

Telephone Number (703) 683-2300

**Chesapeake**

**1103 South Military Highway**

P. O. Box 1486

Chesapeake, Virginia 23327-1486

Telephone Number (804) 424-6700

**Hampton**

4907 West Mercury Boulevard

P. O. Box 5226

Newport News, Virginia 23605-0226

Telephone Number (804) 825-7830

**Lynchburg**

201 Tarkington Building

2600 Memorial Avenue

P. O. Box 10336

Lynchburg, Virginia 24506-0336

Telephone Number (804) 947-6701

**Richmond**

**2901 Hermitage Road**

P. O. Box 27491

Richmond, Virginia 23261-7491

Telephone Number (804) 367-0144

**Roanoke**

3023 Peters Creek Road

Roanoke, Virginia 24019-2738

Telephone Number (703) 857-7107

**Staunton**

460 Commerce Square

P. O. Box 3036

Staunton, Virginia 2440 1-3036

Telephone Number (703) 332-7800